

United States Department of Justice
Office of the United States Trustee
110 N. College Avenue, Suite 300
Tyler, Texas 75202
(903) 590-1450; Fax (903) 590-1461

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In Re	§	
	§	
AGAP Life Offerings, LLC ¹	§	Case No. 16-40520
5605 FM 423	§	
Suite 500-123	§	(Jointly Administered Under
Frisco, TX 75034	§	Case 16-40520)
DENTON-TX	§	
Tax ID / EIN: 26-4069293	§	Chapter 11
	§	
Debtor	§	
	§	

**UNITED STATES TRUSTEE’S OBJECTION TO
APPLICATION FOR ORDER AUTHORIZING EMPLOYMENT OF
BILL SHORT, CPA AS CHIEF RESTRUCTURING OFFICER**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE PRESIDING:

William T. Neary, the United States Trustee for Region 6 (“U.S. Trustee”) hereby files in the above-numbered and captioned administratively-consolidated bankruptcy cases (“Cases”) his Objection to Application for Order Authorizing Employment of Bill Short, CPA, as Chief Restructuring Officer (“Objection”) and respectfully states in support thereof:

Background

1. On or about March 24, 2016, AGAP Life Offerings, LLC (“Life Offerings”), AGAP LS 108, LLC (“108”); AGAP LS 109, LLC (“109”); AGAP LS 209 (“209”); AGAP LS

¹The jointly administered cases include AGAP Life Offerings, LLC, Case No. 16-40520-btr; AGAP LS309, LLC, Case No. 16-40521-btr; AGAP LS 108, LLC, Case No. 16-40529-btr; AGAP LS 109, LLC, Case No. 16-40530-btr; AGAP LS 209, LLC, Case No. 16-40531-btr; and AGAP LS 509, LLC, Case No. 16-40532-btr.

(“309”); and AGAP LS 509, LLC (“509” and together with Life Offerings, 108, 109, 209, and 309 collectively, the “Debtors”) filed for relief under chapter 11.

2. No committee has been appointed in the Cases.

3. On May 24, 2016, the U.S. Trustee filed his Motion to Appoint Chapter 11 Trustee, Dismiss the Cases, or Convert the Cases to Chapter 7, or for Other Relief (“Trustee Motion”).

4. On July 11, 2016, the Debtors filed their Application to Employ Bill Short, CPA, as Chief Restructuring Officer (“CRO Motion”). The Debtors express in the CRO Motion that they prefer a CRO to a chapter 11 trustee. The Debtors describe their intent for the CRO in their Amended Disclosure Statement “[a]lso the Debtors are seeking to retain a Chief Restructuring Officer, Bill Short, **who will oversee Plan approval, Plan consummation and the future operations** of the Debtors and will replace current management by Jeff and Charles Madden.” *Id.* at 3 (emphasis added).

5. The U.S. Trustee alleges in the Trustee Motion, among other things, that after evaluating certain of the Debtors’ governing documents, the rights of creditors and interest holders are not clear. The rights of creditors and interest holders described in Debtors’ governing documents also appear inconsistent with Debtors’ assertions in filed papers, including the Debtors’ plan and disclosure statements.

6. The U.S. Trustee urges the appointment of a chapter 11 trustee instead of the proposed CRO to ensure the duties of a trustee described in 11 U.S.C. § 1106, and 11 U.S.C. § 704(a) as incorporated, and other operative guidance are fully performed. The U.S. Trustee published the Chapter 11 Trustee Handbook, available to the public at: <https://www.justice.gov/ust/private-trustee-handbooks-reference-materials/chapter-11->

[handbooks-reference-materials](#). Attached to this Objection as “Exhibit A” is an excerpt from the Chapter 11 Trustee Handbook, Chapter 6: Duties of a Trustee, which more fully describes the scope and breadth of a chapter 11 trustee’s obligations in a case.

7. The U.S. Trustee believes a more extensive examination of the various parties’ rights and interests and deeper investigation of claims and potential causes of action is necessary than the Debtors appear to contemplate with the CRO. The U.S. Trustee believes a chapter 11 trustee would be better equipped to conduct such analyses in the Cases rather than a CRO intended to “oversee Plan approval” as proposed.

WHEREFORE, in light of the foregoing, the U.S. Trustee respectfully opposes the employment of the proposed CRO.

Dated: July 21, 2016

Respectfully submitted,

William T. Neary
United States Trustee
Region 6

By: /s/ Marc Salitore
Timothy W. O’Neal
Asst. U.S. Trustee, SBOT 15283350
Marcus F. Salitore
Trial Attorney, SBOT 24029822
110 N. College Avenue, Suite 300
Tyler, Texas 75702
(903) 590-1450; Fax (903) 590-1461

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on the following listed persons through the court’s electronic notification system as permitted by Appendix 5005 III E to the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Texas, or by first class United States Mail, postage prepaid, no later than July 22, 2016.

/s/ Marc Salitore
Marcus F. Salitore

Debtors

AGAP Life Offerings, LLC
AGAP 108 LS, LLC
AGAP 109 LS, LLC
AGAP 209 LS, LLC
AGAP 309 LS, LLC
AGAP 509 LS, LLC
5605 FM 423
Suite 500-123
Frisco, TX 75034

Debtors' Attorney

Joyce W. Lindauer
12720 Hillcrest Road
Suite 625
Dallas, TX 75230

Notices of Appearance

J. Mark Chevallier
James G. Rea
McGUIRE, CRADDOCK & STROTHER, P.C.
2501 N. Harwood, Suite 1800
Dallas, TX 75201

The Wiley Law Group, PLLC
325 N. St. Paul Street, Suite 4400
Dallas, TX 75201

Mark C. Moore (TX 24074751)
Rachel Kingrey (TX 24068616)
GARDERE WYNNE SEWELL LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201